

Summary Minutes of the  
Delta Protection Commission Meeting  
Thursday, September 27, 2007

ADMINISTRATIVE AGENDA

**1. Call to Order/Flag Salute**

Vice Chairman Ferguson called the meeting to order at 6:30 p.m.

**2. Welcome New Commissioners**

Vice Chairman Ferguson welcomed Marina Brand to the Commission as the State Lands Commission representative.

**3. Roll Call**

**Present:** Commissioners Armor, Brand, Cabaldon, Dresser, Ferguson, Johnson, Johnston, Nottoli, Piepho, Ruhstaller, Simonsen, Tilghman, and van Loben Sels.

**Absent:** Commissioners McGowan, Calone, Kelly, Reagan, Scriven, Shaffer, and Wilson.

**4. Public Comment - Opportunity for Members of the Public to Address the Commission. Comments also Welcome as Agenda Items are Discussed.**

Tom Martens, Executive Director of Discover the Delta Foundation thanked Linda Fiack for her service as a board member and for helping the Foundation accrue money for the Information Center and the Welcome to the Delta signs.

Harry Moore, Stockton reported that the water tables of the entire valley area have dropped dramatically from over pumping and are still causing losses of our aquifers in all areas. Mr. Moore said that much of the Delta is fifteen to twenty feet below sea level and sinking about four inches per year. He said that over 5,200 square miles of the central valley has subsided in excess of one foot and in some areas around Mendota as much as 31 feet and that in order to recover a portion of the losses, the first step would be to protect the head waters and restart as much fresh water flow as possible for our main rivers and streams.

**Consent Agenda Items (5-14)**

Commissioner Simonsen moved approval of the Consent Agenda; Commissioner Cabaldon seconded. The Consent Agenda was approved unanimously.

**15. Receive Informational Presentation from Wildlands, Inc. Relative to Modeling Activities Underway on Prospect and Liberty Islands**

Julie Mentzer, Wildlands, Inc., said that Wildlands & Trust for Public Lands (TPL) propose to develop the Liberty Island Conservation Bank on the 1,000 acres they have rights to on the north end of Liberty Island—the rest of the island is permanently flooded as a result of the private levee failure in 1997. Ms. Mentzer said that the vision for restoration of Liberty Island is to preserve and restore its riparian corridor and wetland habitats to benefit Chinook Salmon, Delta Smelt, Sacramento Split-tail, water-associated birds and other at-risk species. She said the conservation values of the proposed bank will be protected in perpetuity by placing the site under

a conservation easement. Moreover, perpetual stewardships will be financed by an endowment account and upon completion of the proposed bank the property will be deeded to TPL to become part of a state-federal conservation area.

Commissioner Tilghman asked if the model provided for recreation and public access. Ms. Mentzer responded no.

Commissioner Armor asked if there was a demonstrated benefit to the Delta smelt and if there was any monitoring being done. Ms. Mentzer responded that Wildlands was working to have the smelt identified in the CALFED programs; additionally, Wildlands would have a management plan and base line surveys.

**16. Receive Information Presentation from Staff on GIS Mapping Completed to Date, Relative to Potential Development of a Delta Agricultural Easement Program.**

Ms. Butterfield reported that Commission staff has convened two meetings with the five land trusts operating in the Delta, the Department of Conservation, and the Department of Food and Agriculture (CDFA) to discuss the potential for developing a Delta agricultural easement program. She said that the GIS maps displayed in the room were prepared by the Commission's graduate student and identified flood, urbanization, agriculture, and habitat parameters to be addressed. The next meeting of the group is October 12, 2007, and NRCS and American Farmland Trust have been invited to provide their viewpoints. Landowners and agricultural commissioners will be invited at a later date to continue the discussion.

Commissioner van Loben Sels suggested that the maps reflect the breakdown of the types of crops, such as permanent crops vs. field crops. He also suggested that the maps reflect water quality as it would be helpful to those serving on the Delta Vision Stakeholder's group.

Commissioner Armor stated that Department of Fish and Game (DFG) has a map that identifies infrastructure in the Delta and he would be willing to share the data layers.

Commissioner Cabaldon said that he found the maps helpful. He suggested that the flood plain map reflect the reverse color so that light blue would mean not in a flood plain and dark blue would mean in a flood plain.

**17. Receive Informational Update on Delta Vision Process from Delta Vision Stakeholder Committee Members and Local Elected Panel Members, Including Letter Sent to the Blue Ribbon Task Force Relative to Governance.**

Ms. Fiack reported that there is not much of an awareness of what has been posted and available for comment on the Delta Vision website. She said that context memos are on the website and encouraged everyone to review them and respond. Ms. Fiack reported that there are alternative visions in addition to the draft vision posted on the website and asked that Commissioners/staff become familiar with them. Ms. Fiack also said that the Commission sent a letter to the Chair of the Blue Ribbon Task Force (BRTF) regarding governance.

Commissioner van Loben Sels said that the 43 member Stakeholders' group began meeting in March 2007 and to date, has had seven two-day meetings. He said the group delivered two visions—"flexible Delta" and "resilient, adaptive Delta" therefore, if one vision does not work they would go with the other. Commissioner van Loben Sels said that the BRTF first draft came out on August 12, 2007, with the second and third drafts to come out on October 18, 2007 and

November 22, 2007 respectively. Any public comments would be accepted before the second and third drafts as the BRTF would need to deliver a vision to the Governor by January 1, 2008. He also said that with so many agencies participating in the Delta Vision, the issue of governance needed to be solved.

Commissioner Simonsen stated that he was frustrated with the process. He said the Stakeholders should look at what is needed to protect the Delta and what was missing in the vision is where are the points of the waters taken out of the Delta by local users. Commissioner Simonsen also said that the Stakeholders needed to look at the real vs. political Delta and that the Commission should take up the governance issue.

Commissioner Cabaldon stated that he wanted water quality beyond salinity, and pollutants addressed. He said he was particularly focused on land use and if the current vision moves forward as is, the Commission should review what changes, if any, are necessary in its own scope and address questions about what are the Primary and Secondary Zones, and how they relate to land use and the geography of the Delta.

Commissioner Piepho said that Contra Costa County took action to adopt Contra Costa Council's Statement of Principles. In addition, the County requested a joint session with the Alameda County Board of Supervisors and would look to San Joaquin County for potential alliance as well. She said that Contra Costa County remained highly concerned about the Peripheral Canal proposal, the eight western Delta islands and salinity intrusion, and the lack of levee infrastructure investment and does not feel that a through Delta conveyance option has been thoroughly discussed or provided.

Commissioner Ruhstaller said that San Joaquin County sent a resolution to the Governor and various agencies opposing the Peripheral Canal. He said that San Joaquin County does not believe the Canal would save the Delta and should look outside of the Delta for answers. He also said that San Joaquin County believes in the position paper submitted by Tom Zuckerman.

#### **18. Consider Priorities for 2007-2008 Program Administration and Regional Plan Implementation Consistent with the Commission's 2006-2011 Strategic Plan.**

Ms. Fiack reported that the Commission adopted its strategic plan in 2006. She said the plan identified project management and administrative tasks annually. She presented the recommended tasks for 2007-2008 which include carrying out the mandate to plan the Delta Trail, continuing with the Ag. Easement Program, implementing the Working Landscapes Grant, and initiating discussions to update the Commission's Management Plan.

Vice Chairman Ferguson asked if there was enough staff to carryout all the duties. Ms. Fiack responded that the tasks were doable and that recruitment of more office staff was underway. Vice Chairman Ferguson directed Ms. Fiack to move forward with the plan.

#### **19. Discuss and Consider Staff Recommendation to Establish a Policy for Appointment of Chair and Vice-Chair, Consistent with the Delta Protection Act.**

Ms. Fiack reported that AB 797 (Wolk) called for the term limit for the Chair be every two years. Ms. Fiack recommended that the Commission consider appointing a local government (county/COG) member to serve as Chair, and a local stakeholder member to serve as Vice-Chair, pursuant to Commission nomination, nominee acceptance, and Commission vote.

Commissioner Cabaldon suggested a nominating committee be appointed to bring a recommendation back to the Commission.

Commissioner Johnston said that if the Commission adopted the recommendation as presented, it would run the risk of undermining the effectiveness of having all member entities participate. He said he liked the idea of a nominating committee, but wanted the nominating committee to have a representative from all the various types of entities.

Matt Campbell, Commission legal counsel advised that if more than two members were on the nominating committee, then any meetings would have to be noticed under Bagley Keene.

Staff was directed to work with the Chair to appoint a nominating committee consisting of two Commissioners and the Executive Director.

## **20. Receive Information on Intent of Staff to Initiate Process for Amending Commission Regulations to Conform to Statutes Pursuant to Provisions of Assembly Bill 797.**

Matt Campbell reported that Commission staff was working with his office to amend the existing regulations for Commission appeal of a project in the Primary Zone, pursuant to provisions of AB 797. He said that while the statute provides for an aggrieved person or the Commission to file an appeal, the regulations do not provide a procedure for the Commission to initiate an appeal. He said that DOJ legislative staff would develop language for proposed regulations and issue a notice of rulemaking. As required by law, the Commission will go through the formal rulemaking process and publish the documents to be available to the public for 45 days. The Commission would then hold a public hearing and take testimony and publish comments. He said that it could be a long process, but once the Commission is satisfied, the proposed regulations would go to the Office of Administrative Law for approval. Mr. Campbell said he expected to have a proposal before the Commission soon.

Commissioner Cabaldon said that although the process seems administerial in nature, the Commission should be highly engaged to make sure that due process takes place.

## **21. Commissioner Comments/Announcements**

Commissioner van Loben Sels reported that the Commission had two of the 28 milestones in the Delta history document presented to the Delta Vision Blue Ribbon Task Force.

Commissioner Piepho asked about the status of the safe marker buoy in Lower Sherman Island. She said the Contra Costa County Director of Public Works has pledged money for the project. Commissioner Nottoli responded that he was waiting to hear from Sacramento County staff regarding funding, and Commissioner Armor said that he was awaiting more information from DFG legal staff; however, he was close to a resolution on liability.

Ken Trott, CDFA, gave an update on the Agriculture Farm Bill. He said that the bill is a body of laws that affect agriculture in the country and is renewed every five years. He also said that CDFA had listening sessions around the State to solicit comments on the bill and urged Commission Members to submit any comments they might have quickly. Mr. Trott said that CDFA supports the house version of the bill, but would like to see the adjusted gross income limit changed as it should only apply to farm bill programs and not conservation programs. Additionally, CDFA also supported SB 1160 because it supported specialty crop programs.

Mr. Trott also reported that the CDFA Board was asked to take the lead to develop a 25-30 year strategic agriculture plan. The board had its first meeting and heard from a variety of interests and experts. Some of the topics of discussion included awareness of health, nutrition, obesity, food safety, and the importance of agriculture in tourism. Pressures include climate change, competition for land and water, species protection, cost of labor, and intergeneration transfer of land and global competition.

Commissioner Simonsen asked if the UC Extension was involved in the project. Mr. Trott responded that they were actively involved and sits on the board. Ms. Butterfield has also been participating in meetings and discussion on the subject.

## **22. Adjourn**

The meeting was adjourned at 8:45 p.m.